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9 CHEVRON U.S.A. INC.,
a Pennsylvania corporation

10
11 UNITED STATES DISTRICT COURT

12 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

13 MARK SNOOKAL, an individual,

14 Plaintiff,

15 vs.

16 CHEVRON USA, INC., a California
Corporation, and DOES 1 through 10,
inclusive,

17 Defendants.

18 Case No. 2:23-cv-6302-HDV-AJR

19 DEFENDANT CHEVRON USA, INC.’S
OPPOSITION TO PLAINTIFF MARK
SNOOKAL’S MOTION IN LIMINE NO.
2 – DAUBERT MOTION TO EXCLUDE
THE EXPERT OPINION TESTIMONY
OF DR. UJOMOTI AKINTUNDE

20 Date: July 24, 2025

Time: 10:00 a.m.

Place: Courtroom 5B – Fifth Floor

District Judge: Hon. Hernán De. Vera

Magistrate Judge: Hon. A. Joel Richlin

Action Filed: August 3, 2023

Trial Date: August 19, 2025

1 **OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE NO. 2**

2 **I. INTRODUCTION**

3 Defendant Chevron U.S.A. Inc., a Pennsylvania corporation ("Chevron U.S.A." or
4 "Defendant"), opposes Plaintiff Mark Snookal's Motion in Limine No. 2 seeking to
5 exclude the percipient expert opinion of Dr. Ujomoti Akintunde, a cardiologist whose
6 opinion was consulted and relied upon to determine whether Plaintiff's heart condition
7 would prevent him from working in one of the most remote places on earth.

8 Plaintiff's motion to exclude Dr. Akintunde's opinion should be denied because (1)
9 Dr. Akintunde's opinion is based on her scientific or specialized knowledge in
10 cardiology, which would assist the jury in determining an essential issue of the case; and
11 (2) Dr. Akintunde's opinion is based on sufficient facts and reliable principles and
12 methods as utilized by cardiologists in the industry. Dr. Akintunde, like other doctors,
13 assessed a low risk of an adverse cardiovascular occurrence related to Plaintiff's heart
14 condition. This fact is not in dispute by any of the doctors who are involved in this case,
15 including Plaintiff's proposed cardiology expert. There is no basis for this Court to
16 conclude that there is such an analytical gap between Dr. Akintunde's opinion and the
17 facts, such that Dr. Akintunde's opinion can be excluded.

18 For these reasons, Plaintiff's Motion in Limine No. 2 should be denied.

19 **II. ARGUMENT**

20 **A. Dr. Akintunde is a Qualified Expert Because Her Opinion Reflects**
21 **Specialized Medical Expertise in Cardiology and Will Assist the Trier of**
22 **Fact In Determining Material Issues.**

23 When acting as a gatekeeper for the admissibility of expert testimony, the Court
24 performs a two-step test: first, the Court determines if a witness has the required
25 expertise; then the Court ensures that "any and all testimony or evidence admitted is not
26 only relevant, but reliable." *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 589
27 (1993). In applying Federal Rule of Evidence 702, the trial court exercises broad
28 discretion regarding the admissibility of expert-technical evidence by performing a

1 ““gatekeeping role . . .to all expert testimony”” *Hangarter v. Provident Life &*
2 *Accident Ins. Co.*, 373 F.3d 998, 1017 (9th Cir. 2004); *see Daubert*, 509 U.S. at 590-92
3 (1993). A court properly exercises this gatekeeping role to exclude expert testimony only
4 where the “factual basis, data, principles, methods, or their application [of the expert’s
5 testimony] are called sufficiently into question” by the moving party because the expert
6 has not used “the same level of intellectual rigor that characterizes the practice of an
7 expert in the relevant field” *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 149, 152
8 (1999).

9 Here, the sole basis for Plaintiff’s claim that Dr. Akintunde’s expert opinion is not
10 based on scientific, technical, or other specialized knowledge is the fact that Dr.
11 Akintunde has never treated an employee with a dilated aortic root condition that has
12 ruptured or dissected. *See* Mussig Decl., ¶ 2, Ex. A (Akintunde Dep. Tr.) at 77:17-78:7.
13 Plaintiff’s argument is simply incorrect and cannot form the basis to exclude Dr.
14 Akintunde. The issue for the trier of fact will be determining whether Chevron U.S.A.
15 had the legal right under the FEHA, based on medical information, to determine if
16 Plaintiff was unfit for duty *in Escravos* and was a direct threat to himself because his
17 heart condition could not be monitored or treated on-site.¹ Plaintiff could not perform his
18 duties in Escravos because a cardiovascular complication relating to his heart condition,
19 such as a dissection or rupture, would result in certain death in Escravos due of the lack
20 of access to medical facilities and personnel. *Id.* at ¶ 2, Ex. A (Akintunde Dep. Tr.) at
21 81:3-82:5, 82:9-24; *id.* at ¶ 3, Ex. B (Adeyeye Dep. Tr.) at 128:18-129:3. In other words,
22 Plaintiff was deemed unfit for duty because the occurrence of an adverse cardiovascular
23 event in Escravos would lead to his death. This is not in reasonable dispute.

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26 ¹ The evidence at trial will show that Plaintiff’s heart condition required regular
27 monitoring using imaging equipment that was not available in Escravos and Plaintiff was
28 recommended to take medication which could not be prescribed nor obtained in
Escravos.

1 It is undisputed that Dr. Akintunde has treated patients with a dilated aortic root
2 since she began working for Chevron Nigeria in 2018, including others prior to that, and
3 has clinical experience with managing the risks of Plaintiff's heart condition. *See*
4 Mussig Decl., ¶ 2, Ex. A (Akintunde Dep. Tr.) at 20:9-13. As Dr. Akintunde testified,
5 experience treating ruptures or dissections is not necessary to make an assessment
6 regarding the risk of complication because a good knowledge of the heart condition and
7 real-world statistics is sufficient to make the assessment. *Id.* at 78:9-22.

8 Furthermore, Plaintiff's argument presents a fatal flaw. It is undisputed that the
9 risk of an adverse cardiovascular event occurring as a result of an aortic root dilation is
10 not assessed based solely on a doctor's subjective or anecdotal experience with treating
11 such conditions in their patients, but rather data aggregated in medical journals which
12 studied the incidence of such events over hundreds or thousands of medical cases.
13 Indeed, Dr. Akintunde not only assessed Plaintiff's cardiological condition based on his
14 imaging reports (*id.* at 63:6-20), but also based on her own knowledge and experience
15 and review of medical literature regarding Plaintiff's condition (*id.* at 70:6-22, 78:19-
16 79:1, 15:5-17). Dr. Adeyeye also assessed Plaintiff's risk of an adverse cardiovascular
17 event based on Plaintiff's cardiovascular status and imaging reports, as well as national
18 and international guidelines set by respected medical institutions (Mussig Decl., ¶ 3, Ex.
19 B [Adeyeye Dep. Tr.] at 109:17-111:1) and medical journals published in Nigeria and
20 internationally studying the epidemiology of aortic root dilations and the fatality rates
21 associated with same (*id.* at 72:20-74:1). Finally, Plaintiff's proposed cardiology expert,
22 Dr. Marmureanu, also opined regarding Plaintiff's risk based not only on his own
23 experience, but also on medical publications which show "the incidence of aortic
24 dissection [or] rupture in someone with" Plaintiff's condition. *Id.* at ¶ 4, Ex. C
25 (Marmureanu Dep. Tr.) at 27:14-28:12.)

26 Dr. Akintunde's opinion is furthermore directly relevant to the issues being
27 considered by the jury because Dr. Eshiofe Asekomeh, who made the determination that
28 Plaintiff was not fit for duty in Escravos, separately requested Dr. Akintunde's cardiology

1 opinion as well as that of Dr. Adeyeye, and relied upon their independent and
2 corroborating opinions in making his determination. Thus, Dr. Akintunde's opinion is
3 percipient expert testimony. In terms of Dr. Akinunde's factual testimony regarding her
4 consultation in Plaintiff's fitness for duty determination, she will necessarily need to
5 testify about her consultation and opinion as provided to Dr. Asekomeh, as well as the
6 bases for her opinion.

7 Accordingly, Dr. Akintunde's opinion, which appropriately considered a review of
8 Plaintiff's medical records and case-specific medical studies relating to Plaintiff's
9 condition, "reflects scientific knowledge and reliable methodology." *Dunivin v. Cnty. of*
10 *Riverside*, 2024 U.S. Dist. LEXIS 132082, *23 (C.D. Cal. Jun. 14, 2024) (*citing Kennedy*
11 *v. Collagen Corp.*, 161 F.3d 1226, 1227-28 (9th Cir. 1998)) (finding a cardiologist's
12 opinion formed based on his review of medical textbooks regarding the plaintiff's
13 condition as well as the plaintiff's medical records were scientifically reliable and
14 relevant). Whether Dr. Akintunde had ever treated a patient with an aortic root dilation
15 or how many patients she treated is relevant only, if at all, to the weight, not
16 admissibility, of Dr. Akintunde's opinion. *See LeBlanc v. City of Los Angeles*, 2006 U.S.
17 Dist. LEXIS 96768, *21-22 (*citing Gaydar v. Sociedad instituto Gineco-Quirurgico y*
18 *Plaintificacion Familiar*, 345 F.3d 15, 25 (1st Cir. 2003) (finding reversible error where a
19 physician expert's testimony was excluded because he was not trained in the most
20 directly relevant specialty); *Holbrook v. Lykes Bros. S.S. Co.*, 80 F.3d 777, 782 (3d Cir.
21 1996) (same)).

22 As Dr. Akintunde's opinion is founded upon reliable scientific and specialized
23 knowledge which would assist the jury in determining one of the material facts at issue in
24 this case, Plaintiff's Motion *in Limine* must be denied.

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1 **B. Dr. Akintunde is a Qualified Expert Because Her Opinion Is Based on**
2 **the Sufficient Facts and Data Through the Application of Reliable**
3 **Principles and Methods.**

4 “Rule 702 requires that expert testimony relate to scientific, technical, or other
5 specialized knowledge, which does not include unsupported speculation and subjective
6 beliefs.” *Guidroz-Brault v. Missouri Pacific R.R. Co.*, 254 F.3d 825, 829 (9th Cir. 2001);
7 *see Daubert*, 509 U.S. at 590. Expert testimony is appropriately admitted if “the
8 proponent demonstrates to the court that it is more likely than not that the proffered
9 testimony meets the admissibility requirements set forth in the rule.” *See Fed. R. Evid.*
10 702, Advisory Committee Notes, 2023 Amendments.

11 Rule 702 requires an expert’s testimony to be based on “sufficient facts or data,”
12 which is a matter of “foundation, not corroboration.” *Favell v. Univ. of S. Cal.*, 2024
13 U.S. Dist. LEXIS 210443, *19-20 (C.D. Cal. Nov. 13, 2024) (*quoting Elosu v.*
14 *Middlefork Ranch Inc.*, 26 F.4th 1017, 1025-26 (9th Cir. 2022)). While a court may
15 “conclude that there is simply too great an analytical gap between the data and the
16 opinion proffered, Rule 702 does not license a court to engage in freeform factfinding, to
17 select between competing versions of the evidence, or to determine the veracity of the
18 expert’s conclusions at the admissibility stage.” *Id.* (citations, quotation marks, and
19 brackets omitted). Such a finding cannot be made here regarding Dr. Akintunde’s
20 testimony.

21 Here, Plaintiff’s objections to the factual bases for Dr. Akintunde’s opinion are all
22 based on his arguments that Dr. Akintunde did not consider certain or a sufficient number
23 of studies, or that Dr. Akintunde did not consider as much of Plaintiff’s medical data and
24 history as Plaintiff contends she should have. Not only are these contentions without
25 basis in fact, as will be demonstrated at trial, they fail as a matter of law to constitute
26 sufficient grounds to exclude Dr. Akintunde’s testimony because they go to the weight,
27 not admissibility, of Dr. Akintunde’s opinion. *Kennedy*, 161 F.3d 1226, 1230-31
28 (*quoting McCulloch v. H.B. Fuller Co.*, 61 F.3d 1038, 1044 (2d Cir. 1995) (finding

1 “[d]isputes as to the strength of [an expert's] credentials, faults in his use of [a particular]
2 methodology, or lack of textual authority for his opinion, go to the weight, not the
3 admissibility, of his testimony”).

4 Although Dr. Akintunde testified that she did not recall specifically which medical
5 journals or studies she reviewed when making her assessment of Plaintiff's risk of an
6 adverse cardiological event, she testified that she had “reviewed [medical] literature
7 around aortic tissue for years” and that was “the way [she] practice[d] medicine.”
8 Mussig Decl., ¶ 2, Ex. A (Akintunde Dep. Tr.) at 15:2-17. She did recall that she had
9 reviewed a medical journal article cited by Plaintiff's cardiologist, which listed Plaintiff's
10 risk of an adverse occurrence at 2%, though she did not specifically recall whether she
11 had reviewed the article at the time she provided her assessment of Plaintiff's risk in
12 2019. *Id.* at 85:13-86:4. Plaintiff's suggestion that Dr. Akintunde's specialized
13 knowledge of cardiology, which she had developed over her years of practice through the
14 regular review of current and new medical journal articles, does not constitute “sufficient
15 facts or data” to form the basis of her opinion because she does not recall the specific
16 cardiology articles she referenced more than five years ago is insufficient as a matter of
17 law for a finding of inadmissibility because they go to the weight, not admissibility, of
18 Dr. Akintunde's opinion. *Kennedy*, 161 F.3d 1226, 1230-31 (*quoting McCulloch v. H.B.*
19 *Fuller Co.*, 61 F.3d 1038, 1044 (2d Cir. 1995)).

20 Plaintiff makes much of the fact that Dr. Akintunde did not speak to Plaintiff or to
21 Plaintiff's cardiologist in making her assessment of risk of an adverse cardiovascular
22 occurrence. Notably, Plaintiff's cardiology expert, Dr. Marmureanu, likewise did not
23 speak with Plaintiff or Plaintiff's cardiologist at any time before rendering his opinion,
24 and he testified that it was **not** necessary to do so because he had data from medical
25 journals, Plaintiff's imaging reports, and medical records. *See* Mussig Decl., ¶ 4, Ex. C
26 (Marmureanu Dep. Tr.) at 54:14-55:6. Additionally, Dr. Adeyeye and Dr. Akintunde
27 agree that speaking with Plaintiff and his cardiologist was unnecessary when they already
28 had Plaintiff's imaging reports and medical records. *See* Mussig Decl., ¶ 3, Ex. B

1 (Adeyeye Dep. Tr.) at 119:14-121:24; *id.* at ¶ 2, Ex. A (Akintunde Dep. Tr.) at 77:7-18.

2 It is indisputable that Dr. Akintunde's opinion cannot be disqualifed for this reason.

3 Finally, Plaintiff claims that Dr. Akintunde's opinion is not reliable because she
4 did not consider whether Plaintiff's heart condition was stable in size over time or
5 whether Plaintiff was taking preventative medication.² However, Dr. Akintunde and Dr.
6 Adeyeye have testified that if any additional information were available to them (e.g.,
7 about Plaintiff's family, medical, or social history; his metabolic panel, his health habits,
8 disorders, etc.), it would only have maintained or increased the assessed level of risk, not
9 decreased it. *See* Mussig Decl., ¶ 3, Ex. B (Adeyeye Dep. Tr.) 123:20-125:15; *id.* at ¶ 2,
10 Ex. A (Akintunde Dep. Tr.) 44:22-45:11.

11 As demonstrated above, Dr. Akintunde's opinions are soundly based on the
12 medical and factual data available to her. This Court cannot select between competing
13 expert evidence or make a determination as to the veracity of an expert's opinion at this
14 stage. There is simply no basis to conclude that there is such a great analytical gap
15 between the data provided and Dr. Akintunde's opinion that it would render Dr.
16 Akintunde's opinion inadmissible. Accordingly, Plaintiff's Motion *in Limine* must be
17 denied.

18 **III. CONCLUSION**

19 For all the foregoing reasons, this Court should deny Plaintiff's Motion in Limine
20 to exclude Dr. Akintunde's expert opinion instead permit Chevron U.S.A. to introduce
21 such evidence as it sees fit.

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23 [signature appears on following page]

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26 ² Dr. Akintunde was aware Plaintiff was taking anti-hypertensives (blood pressure
27 medication), but indicated that it would be better if Plaintiff took beta blockers instead of
or in addition to his medication. *See* Mussig Decl., ¶ 2, Ex. A (Akintunde Dep. Tr.) at
28 43:21-44:8.

1 Dated: July 15, 2025

2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

3

4 By _____

/s/ Robert Mussig
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